

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

W.P. NO. 19442 of 1998

DATED: 14-03-2007

Between:-

1. K. Thimmaiah s/o Venkatappa, aged about 35 years, R/o Upparapalli village, Pothapolu Post, Madanapalli Mandal, Chittoor District.
2. K. Akkulappa s/o Venkatappa, aged about 38 years, R/o Upparapalli village, Pothapolu post, Madanapalli Mandal, Chittoor District.

...PETITIONERS

And

1. The Special Commissioner of Land Revenue, Andhra Pradesh at Hyderabad,
2. The Joint Collector, Chittoor, Chittoor District,
3. The revenue Divisional Officer, Madanapalli, Chittoor District,
4. The Mandal Revenue Officer, Madanapalli, Chittoor District.
5. P. Ramanna s/o Vemanna, aged about 47 years, R/o Diguvagandlapalle, Pothabolu (v), Madanapalle Mandal, a Chittoor District,
6. P .Venkataramana s/o Vemanna, aged about 52 years, Diguvagandlapalli, Pothabolu (v), Madanapalle Mandal, Chittoor District.

..RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

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ORDER

This writ petition is filed seeking a Writ of Mandamus declaring the order passed by the second respondent in D.Dis. (B3). 4417/94, dated 7-12-1995 and as confirmed by the second respondent in proceedings Rc.No.BCW.2/105/96, dated 28.2.1998, as arbitrary, illegal and unconstitutional.

It is the case of the petitioners that since 10 years prior to 1982 they are in possession of the lands measuring to an extent of Ac. 3.04 cents of dry land and Ac. 2.20 cents of dry land in Pothapolu village, Madanapalli Mandal, Chittoor District respectively and, thereafter in the year 1982 assignments were made and the petitioners have become the lawful owners of the lands in question. However, on representations made by the unofficial respondents to the Revenue Divisional Officer, after lapse of nine years, i.e. in the year 1991, the Revenue Divisional Officer directed the Mandal Revenue Officer to hold an enquiry and accordingly the Mandal Revenue Officer, after holding enquiry, submitted a report to the Revenue Divisional Officer stating that the petitioners' family own more than 20 acres of land, and the petitioners have got a share of about Ac.3.27 cents of land and hence the said assignment is not proper. On the basis of the said report, the Revenue Divisional Officer referred the matter to the District Collector, who in turn, passed an order stating that the petitioners are not landless poor

persons. As against which, an appeal was preferred and the same was dismissed by the 1st respondent-appellate authority. Hence this writ petition.

The main contention of the learned counsel for the petitioners is that it is a fact that the entire family members are entitled to 1/9 share in Ac. 20.80 cents of land, and the petitioners have got only Ac.2.31 cents of land in the notional partition and hence, the very report furnished by the Mandal Revenue Officer is false and the petitioners were not given an opportunity to rebut the said report of the Mandal Revenue Officer.

Having heard both the learned counsel at length, this Court is of the view that the said submission of the learned counsel for the petitioners finds force and accordingly this Court is of the view that the orders impugned in this writ petition are hereby set aside and the matter is remitted to the 2nd respondent-Joint Collector with a direction to hold an enquiry after furnishing the report of the Mandal Revenue Officer to the petitioners. The petitioners are directed to offer their explanations to rebut the same and after considering the representation of the petitioners as well as the unofficial respondents, the 2nd respondent- Joint Collector may pass appropriate orders there on in accordance with law. The petitioners are at liberty to raise all tenable contentions before the 2nd respondent-Joint Collector.

Accordingly, the writ petition is allowed. No order as to costs.

GOPALAKRISHNA TAMADA, J

Dated: 14-03-2007
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